



Massachusetts Department of Environmental Protection

Bureau of Waste Prevention – Solid Waste Management

Beneficial Use Determination

BWP SW 39 Beneficial Use Determination – Commercial Products

BWP SW 40 Beneficial Use Determination – Regulated Systems

BWP SW 41 Beneficial Use Determination – Restricted Applications

BWP SW 42 Beneficial Use Determination – Unrestricted Applications

BWP SW 44 Beneficial Use Determination - Modification

Instructions and Supporting Materials

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Introduction

MassDEP *Permit Applications*, as well as *Instructions & Support Materials*, are available for download from the MassDEP Web site at mass.gov/dep in two file formats: Microsoft Word® and Adobe Acrobat PDF®. Either format allows documents to be printed.

Instructions & Support Materials files in Microsoft Word® format contain a series of documents that provide guidance on how to prepare a permit application. Although we recommend that you print out the entire package, you may choose to print specific documents by selecting the appropriate page numbers for printing.

Permit Applications in Microsoft Word® □ format must be downloaded separately. Users with Microsoft Word® 97 or later may complete these forms electronically.

Permitting packages in Adobe Acrobat PDF® □ format combine *Permit Applications* and *Instructions & Support Materials* in a single document. Adobe Acrobat PDF®□ files may only be viewed and printed without alteration. *Permit Applications* in this format may not be completed electronically.



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1. What is the purpose of these determinations?

Some types of solid waste may be used as an effective substitute for a commercial product or commodity. This is termed "beneficial use" of a solid waste. MassDEP must determine that this use of solid waste is beneficial and will not harm public health or the environment. The material is then classified as a secondary material and not as a solid waste. The approval may limit use of the material to a specific location or to a specific application of the material, or both.

Legal authority is found in MGL c. 21A, ss. 2 and 8, c. 111, ss. 150A. Regulatory authority is found in 310 CMR 19.000: Solid Waste Management Regulations, specifically 310 CMR 19.060, Beneficial Use of Solid Wastes.

2. Who must apply?

Any individual, business or organization that wants to beneficially use solid waste materials or to modify an existing beneficial use determination approval.

2a. Which application should I file, BWP SW 39, BWP SW 40, BWP SW 41, BWP SW 42 or BWP SW 44?

The application you should use is determined by the intended use of the material as defined below. In addition, modifications of existing beneficial use determinations are subject to the modification category also listed below.

BWP SW 39. Category 1 -- Use of Secondary Materials in Commercial Products.

Products manufactured from secondary materials or secondary materials that are directly used as products are considered commercial products under the following conditions:

- When the product is used in a manner that is consistent with industry accepted product specifications or performance standards;
- When the product is controlled and managed throughout its lifecycle in a manner that effectively limits potential for illegal or inadvertent disposal or releases of hazardous material to the environment and exposure to people;
- When any adverse impacts or significant risks to public health, safety and the environment, including, but not limited to, nuisance conditions, can be evaluated and controlled.

Products applied to the land cannot be considered commercial products.

BWP SW 40. Category 2 -- Use of Secondary Materials in Regulated Systems.

Beneficial use of secondary materials at facilities permitted, approved or otherwise regulated by the Department.

BWP SW 41. Category 3 -- Use of Secondary Materials in Restricted Applications.

Secondary materials that are beneficially used in applications that utilize risk management techniques in order to prevent adverse impact or significant risks to public health, safety and the environment, including, but not limited to, nuisances.



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BWP SW 42. Category 4 -- Use of Secondary Material in Unrestricted Applications

Secondary materials that are beneficially used in applications that do not limit exposure to potential human or environmental receptors from secondary material constituents that have the potential to adversely impact or create a risk to public health, safety, or the environment, including, but not limited to, nuisance conditions. Unrestricted beneficial use proposals are subject to the most comprehensive risk evaluations.

BWP SW 44. Modification - This permit category is used any time an applicant wants to modify an existing previously approved beneficial use determination permit.

For more clarification on which application to use please see 310 CMR 19.060, the "Guidance for Beneficial use Determinations" or contact MassDEP.

3. What other requirements should be considered when applying for these determinations?

The proponent must gather the appropriate data on the physical, chemical and biological nature of the material for which a beneficial use determination is requested. The generator of the waste material may be able to provide most or all of the required information. All relevant analytical data must be documented and provided by a certified laboratory.

All risk assessments, evaluations and other analysis must be performed by qualified and appropriate professionals experienced in that field of expertise.

Note: These additional requirements are intended to serve as a guide to the applicant. It does not necessarily include all requirements.

4. What is the application fee?

BWP SW 39 – Commercial Products.....	\$2,375
BWP SW 40 – Regulated Systems.....	\$2,375
BWP SW 41 – Restricted Applications.....	\$4,455
BWP SW 42 – Unrestricted Applications.....	Individual Rule Project
BWP SW 44 – Modification	\$1,065

5. What is the Primary Permit Location? What is the Reserve Copy Location?

For beneficial use determinations that will be for a use contained within a single MassDEP Regional Office

Primary Permit Location:

Dept. of Environmental Protection

*** Regional Office**

Solid Waste Management

Reserve Copy Location:

Board of Health

(See note).

*Find your region: <http://www.mass.gov/eea/agencies/massdep/about/contacts/>



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For beneficial use determinations that are requesting approval for use at any location throughout the state:

Department of Environmental Protection
Business Compliance Division
Bureau of Waste Prevention
One Winter Street
Boston, MA 02108

Note: A copy of the application must be sent to the board of health for the community in jurisdiction of which the material is to be beneficially used unless MassDEP determines that the proposed use is not limited to a specific location and therefore it is not practical to identify the board of health. The applicant should consult the appropriate MassDEP regional office by phone or letter before the application is made.

6. Where can I get a copy of the timelines?

The timelines are available on the MassDEP Website:

<http://www.mass.gov/eea/agencies/massdep/service/approvals/timely-action-fees-and-payments.html>

7. What is the annual compliance fee?

There is no annual compliance fee for these determinations.

8. How long are these determinations in effect?

There is no specific time limit to a determination of beneficial use unless stipulated for one time use of the material or as otherwise limited by the approval.

9. How can I avoid the most common mistakes made in applying for these determinations?

- a. Submit all the data on the chemical, physical and biological properties of the waste required for MassDEP to make a determination.
- b. Submit a signed copy of the certification form.
- c. Submit fee and one copy of the MassDEP Transmittal Form

<http://www.mass.gov/eea/agencies/massdep/service/approvals/transmittal-form-for-payment.html> to:

Department of Environmental Protection
P. O. Box 4062
Boston, MA 02211

10. What are the regulations that apply to these determinations? Where can I get copies?

These regulations include, but are not limited to:

- a. Solid Waste Management Regulations, 310 CMR 19.000.
- b. Timely Action Schedule and Fee Provisions, 310 CMR 4.00.



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These may be purchased at:

State Bookstore (in State House)
Room 116
Boston, MA 02133
617-727-2834

State Bookstore
436 Dwight Street, Room 102
Springfield, MA 01103
413-784-1376

Also, unofficial copies of these regulations may be available on MassDEP's website at mass.gov/dep.



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Application Completeness Check List

- ☐ The MassDEP Transmittal Form is completed:
<http://www.mass.gov/eea/agencies/massdep/service/approvals/transmittal-form-for-payment.html>
- ☐ Application form has been completed.
- ☐ Certification statement submitted and signed (310 CMR 19.011).
- ☐ One copy of the application has been submitted to the local board of health, unless MassDEP determines that the proposed use is not limited to a specific location and therefore the board of health cannot be identified.

To submit the application package:

- ☐ Checklist items have been completed.
- ☐ Send one copy of the application along with one copy from the MassDEP Transmittal Form to:

Department of Environmental Protection

_____*Regional Office

Solid Waste Management

* Find your region <http://www.mass.gov/eea/agencies/massdep/about/contacts/>

AND (if required by MassDEP, with one copy of the Transmittal Form)

Board of Health

_____(Address)

_____(City or Town)

- ☐ Send fee of:

\$2,375 for BWP SW 39

\$2,375 for BWP SW 40

\$4,455 for BWP SW 41

Individual Rule project for BWP SW 42

\$1,065 for BWP SW 44

along with a check or money order made payable to *Commonwealth of Massachusetts*, along with one copy of the MassDEP Transmittal Form to:

Department of Environmental Protection

P.O. Box 4062

Boston, MA 02211